

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

TAMMY L. SMITH)	CASE NO. 5:08 CV 566
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	MAGISTRATE JUDGE
)	WILLIAM H. BAUGHMAN, JR.
COMMISSIONER OF SOCIAL)	
SECURITY,)	
)	<u>REPORT & RECOMMENDATION</u>
Defendant.)	

This matter comes before the Magistrate Judge by automatic reference of administrative action¹ for review of the decision of the Commissioner of Social Security denying plaintiff's application for Social Security disability insurance benefits and supplemental security income.²

Counsel for the parties have filed a joint stipulation to remand.³ The parties, through their counsel, have stipulated and petitioned this Court to enter an order and judgment reversing and remanding this case to the Commissioner of Social Security for further proceedings, pursuant to the fourth sentence of section 205(b) of the Social Security Act, 42 U.S.C. § 405(g).

¹ Non-document filing of March 12, 2008.

² ECF # 1.

³ ECF # 16.

On remand, the Administrative Law Judge will:

- evaluate the plaintiff's limitations, including her severe and non-severe impairments;
- determine the plaintiff's residual functional capacity and explain how his findings as to the plaintiff's residual functional capacity are consistent with the evidence of record; and
- determine whether the plaintiff can perform her past relevant work or whether there are other jobs that the plaintiff can perform.

If necessary, the ALJ may obtain additional medical and vocational expert testimony, as well as any other evidence needed to assess the plaintiff's functional limitations.

The plaintiff will also be given an opportunity to submit additional evidence and appear at a new hearing.

On consideration whereof, the Magistrate Judge recommends the reversal and remanding of the above-captioned case consistent with the terms of the parties' stipulation.

Dated: October 28, 2008

s/ William H. Baughman, Jr.

United States Magistrate Judge

Objections

Any objections to this Report and Recommendation must be filed with the Clerk of Courts within ten (10) days of receipt of this notice. Failure to file objections within the specified time waives the right to appeal the District Court's order.⁴

⁴ See *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). See also *Thomas v. Arn*, 474 U.S. 140 (1985), *reh'g denied*, 474 U.S. 1111 (1986).